THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.14694 OF 2002

Date: 18th September 2006

Between:
M.Madhuker, son of Venkatswamy,
Aged 38 years, Occ:business, resident of
503, Shivaparvathy Apartments,
Jayanagar, Bowenpally, Secunderabad.

…. Petitioner.

And

1. The Deputy Registrar of Co-operative Society/
   OSD, The Vasavi Co-operative Urban Bank
   Limited, Malakpet,Hyderabad and 2others.

…. Respondents.

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ORDER:

This writ petition is filed seeking a writ of Certiorari declaring the proceedings in E.P.No.049/02/OSD dated 06.7.2002 on the file of the first respondent, as arbitrary and illegal; and consequently to direct the respondents to forthwith refund the E.M.D. amount of Rs.25,000/- to the petitioner herein.

2. It appears that the petitioner participated in the auction conducted by the second respondent on 19.6.2002 in pursuance of a notification issued on the same day i.e., on 19.6.2002 in Eenadu daily newspaper. He paid an amount of Rs.25,000/- towards earnest money deposit by way of cash on the spot and was also

declared as successful bidder in the open auction for Rs.22,75,000/-. The petitioner is supposed to deposit 15 per cent of the auction amount on the very same date i.e., on 19.6.2002. He did not do so. It seems on 20.6.2002 the petitioner made a representation to the Sales Officer-cum-Deputy Registrar of Co-operative Societies (OSD), Vasavi Co-operative Urban Bank Limited, Malakpet, Hyderabad, saying that he came to know immediately after the auction that the property is involved in some litigation, therefore, requested the authorities to supply requisite documents of auctioned property concerned and clarify regarding the disputes etc., Further on 01.7.2002 he filed a reminder, but he did not deposit the 15 per cent of the auction amount as required either on 20.6.2002 or 01.7.2002.

3. In the affidavit filed in support of the writ petition the petitioner stated that since there was some galata on 19.6.2002 when the auction was being conducted, the officers conducting auction and who received Rs.25,000/- towards E.M.D. went away from the scene. Therefore, he did not deposit 15 per cent of the auction amount. This is however, is not the stand taken by the petitioner either in the letter dated 20.6.2002 or in the letter dated 01.7.2002. This is only invented for the purpose of this case.

4. Further, learned counsel for the petitioner has placed before this Court an interim order passed in I.A.Sr.No.1979 of 2002 dated 26th July 2002, to show that this matter is still pending before the Tribunal and the authorities are not supposed to conduct the auction. It is unfortunate such a stand is taken. In fact, if the

petitioner had really paid the amount of 15 per cent on 19.6.2002 itself, probably by the time i.e., before 26.7.2002 the whole auction proceedings could have been concluded by the confirmation of sale. I am of the opinion that this only second thought entertained by the petitioner for the purpose of this writ petition. This writ petition is devoid of merits apart from the fact that the very writ petition is not maintainable against such a cause of action, which is contractual in its nature and is liable to be dismissed.

5. The writ petition is accordingly dismissed. No order as to costs.

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C.V.RAMULU, J.

Date: 18th September 2006.
BSB